



January 18, 2002

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## SENATE BILL No. 148

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DIGEST OF SB 148 (Updated January 15, 2002 4:07 PM - DI 71)

**Citations Affected:** IC 4-13.6.

**Synopsis:** State bidding procedures. Increases the dollar threshold for qualification of bidders and for bidding and awarding of contracts for public works projects. Provides that the director of the division of public works may waive the filing of any public works contractor's financial statement.

**Effective:** July 1, 2002.

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### Lawson C, Broden

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January 7, 2002, read first time and referred to Committee on Public Policy.  
January 17, 2002, reported favorably — Do Pass.

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SB 148—LS 6630/DI 14+



January 18, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## SENATE BILL No. 148

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 4-13.6-4-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) All persons  
3 desiring to perform professional services relating to a public works  
4 project must apply to the board for qualification.  
5 (b) A contractor is not required to apply to the board for  
6 qualification before submitting a bid on a public works contract unless  
7 the estimated cost of the project is one hundred **fifty** thousand dollars  
8 ~~(\$100,000)~~ **(\$150,000)** or more.  
9 (c) An applicant for qualification under this chapter shall use the  
10 forms prescribed by the board. The board shall provide separate and  
11 specific forms for contractors and for persons desiring to perform  
12 professional services.  
13 (d) An applicant must verify the applicant's application.  
14 (e) Notwithstanding IC 5-14-3-4(a)(5), a financial statement  
15 submitted to the board under this chapter is considered confidential  
16 financial information for purposes of IC 5-14-3.  
17 SECTION 2. IC 4-13.6-4-11 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. (a) The director  
2 may not recommend to the commissioner the awarding of a contract to  
3 perform professional services to any person who is not qualified under  
4 this chapter.

5 (b) The division may not accept a bid on a public works project with  
6 an estimated cost of one hundred **fifty** thousand dollars ~~(\$100,000)~~  
7 **(\$150,000)** or more from a contractor who is not qualified under this  
8 chapter.

9 SECTION 3. IC 4-13.6-5-2 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) Except as  
11 provided by this chapter and IC 16-33-4-10, if the estimated cost of a  
12 public works project is at least ~~twenty-five~~ **seventy-five** thousand  
13 dollars ~~(\$25,000)~~, **(\$75,000)**, the division shall award a contract for the  
14 project based on competitive bids.

15 (b) If the estimated cost of a public works project is at least  
16 ~~twenty-five~~ **seventy-five** thousand dollars ~~(\$25,000)~~, **(\$75,000)**, the  
17 division shall develop contract documents for a public works contract  
18 and keep the contract documents on file in its offices so that they may  
19 be inspected by contractors and members of the public.

20 (c) The division shall advertise for bids under section 8 of this  
21 chapter. The director shall award a contract under IC 4-13.6-6.

22 (d) A contractor shall submit under oath a financial statement as a  
23 part of the bid. The director may waive filing of the financial statement.  
24 ~~if the contractor has filed a financial statement during the previous~~  
25 ~~twelve (12) months.~~

26 (e) After bids are opened but before a contract is awarded, the  
27 director may require a contractor to submit a statement of the  
28 contractor's experience, a proposed plan of performing the work, and  
29 a listing of the equipment that is available to the contractor for  
30 performance of the work.

31 (f) The statements required by this section shall be submitted on  
32 forms approved by the state board of accounts. The forms shall be  
33 based, so far as applicable, on standard questionnaires and financial  
34 statements for contractors used in investigating the qualifications of  
35 contractors on public construction work.

36 (g) The division shall reject the bid of a contractor if:

37 (1) the estimated cost of the public works project is one hundred  
38 **fifty** thousand dollars ~~(\$100,000)~~ **(\$150,000)** or more and the  
39 contractor is not qualified under chapter 4 of this article;

40 (2) the estimated cost of the public works project is less than one  
41 hundred **fifty** thousand dollars ~~(\$100,000)~~ **(\$150,000)** and the  
42 director makes a written determination, based upon information

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provided under subsections (d) and (e), that the contractor is not qualified to perform the public works contract;

(3) the contractor has failed to perform a previous contract with the state satisfactorily and has submitted the bid during a period of suspension imposed by the director (the failure of the contractor to perform a contract satisfactorily must be based upon a written determination by the director);

(4) the contractor has not complied with a rule adopted under this article and the rule specifies that failure to comply with it is a ground for rejection of a bid; or

(5) the contractor has not complied with any requirement under section 2.5 of this chapter.

(h) The division shall keep a record of all bids. The state board of accounts shall approve the form of this record, and the record must include at least the following information:

(1) The name of each contractor.

(2) The amount bid by each contractor.

(3) The name of the contractor making the lowest bid.

(4) The name of the contractor to whom the contract was awarded.

(5) The reason the contract was awarded to a contractor other than the lowest bidder, if applicable.

(6) Purchase order numbers.

SECTION 4. IC 4-13.6-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) If the estimated cost of a public works project is less than ~~twenty-five~~ **seventy-five** thousand dollars (~~\$25,000~~), **(\$75,000)**, the division may award a public works contract either under section 2 of this chapter or under this section, at the discretion of the director.

(b) If the director awards a contract under this section, the division shall invite quotations from at least three (3) contractors known to the division to deal in the work required to be done. However, if fewer than three (3) contractors are known to the division to be qualified to perform the work, the division shall invite quotations from as many contractors as are known to be qualified to perform the work. Failure to receive three (3) quotations shall not prevent an award from being made.

(c) The division may authorize the governmental body for which the public work is to be performed to invite quotations, but award of a contract based upon those quotations is the responsibility of the division.

(d) Quotations given by a contractor under this section must be in



1 writing and sealed in an envelope, shall be considered firm, and may  
2 be the basis upon which the division awards a public works contract.

3 (e) The division shall award a contract to the lowest responsible and  
4 responsive contractor and in accordance with any requirement imposed  
5 under section 2.5 of this chapter.

6 SECTION 5. IC 4-13.6-5-4 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) If the estimated  
8 cost of a public works project is less than ~~twenty-five~~ **seventy-five**  
9 thousand dollars (~~\$25,000~~), (**\$75,000**), the division may perform the  
10 public work without awarding a public works contract under section 2  
11 of this chapter. In performing the public work, the division may  
12 authorize use of equipment owned, rented, or leased by the state, may  
13 authorize purchase of materials in the manner provided by law, and  
14 may authorize performance of the public work using employees of the  
15 state.

16 (b) If a public works project involves a structure, improvement, or  
17 facility under the control of the department of natural resources, the  
18 department of natural resources may purchase materials for the project  
19 in the manner provided by law and without a contract being awarded,  
20 and may use its employees to perform the labor and supervision, if:

21 (1) the department of natural resources uses equipment owned or  
22 leased by it; and

23 (2) the division of engineering of the department of natural  
24 resources estimates the cost of the public works project will be  
25 less than fifty thousand dollars (\$50,000).

26 (c) If a public works project involves a structure, improvement, or  
27 facility under the control of the department of correction, the  
28 department of correction may purchase materials for the project in the  
29 manner provided by law and use inmates in the custody of the  
30 department of correction to perform the labor and use its own  
31 employees for supervisory purposes, without awarding a contract, if:

32 (1) the department of correction uses equipment owned or leased  
33 by it; and

34 (2) the estimated cost of the public works project using employee  
35 or inmate labor is less than the greater of:

36 (A) fifty thousand dollars (\$50,000); or

37 (B) the project cost limitation set by IC 4-13-2-11.1.

38 All public works projects covered by this subsection must comply with  
39 the remaining provisions of this article and all plans and specifications  
40 for the public works project must be approved by a licensed architect  
41 or engineer.

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SENATE MOTION

Mr. President: I move that Senator Broden be added as coauthor of Senate Bill 148.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Public Policy, to which was referred Senate Bill No. 148, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 148 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 9, Nays 0.

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